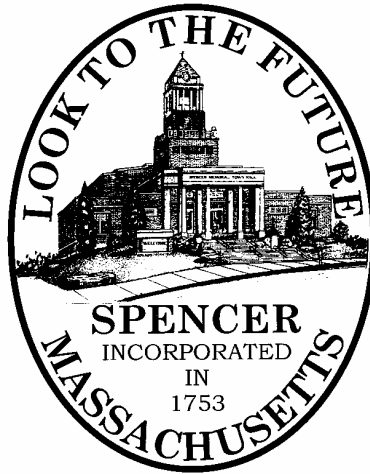


GENERAL BY-LAWS

OF



TOWN OF SPENCER

Adopted May 7, 1992

Updated as of 11/17/2005

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ARTICLE 1

Town Meetings and Elections

Section 1. Town Meetings; Elections; and Terms of Office - revised 11/17/05 Art. 11

Town Meetings and elections shall be held at the call of the Board of Selectmen unless otherwise specified herein or in state statute.

The Annual Town Meeting shall be held on the first Thursday of May of each and every year.

The Annual Election of those Town Officers required to be elected by ballot, by state statute or these by-laws, shall be held on the second Tuesday in May of each year. The term of Town Officers so elected shall run from July 1 to June 30 in the year for which the term at issue was warned. Upon this by-law taking effect, the ending date of the term of any Town Officer having been elected to a term which shall have ended earlier than said June 30th, shall be extended to coincide with this section. The Town Clerk shall so notify any Officer who has their term extended in this manner within 30 days of this section becoming effective.

Effective Date: January 1, 2007

Section 1A. There shall be a Board of Selectmen consisting of five (5) members elected by the voters for three year terms, so arranged that the term of office of at least one member, but not more than two members, shall expire each year. This shall be effective as of the 1994 Annual Town Election. (Added 5/6/93 Art.32).

Section 2. Polling Hours

The polls for all town elections shall open no earlier than 5:45 AM and no later than 12:00 AM; the polls shall close no later than 8:00 PM and shall be open at least four hours, as provided by Massachusetts General Laws.

Section 3. Posting of Warrants

All warrants for State elections shall be served by posting an attested copy; Annual and Special Town Meetings shall be served by posting an attested copy in at least three (3) public places at least seven (7) days prior to the Annual Town Meeting or an Annual or Special Election, and at least fourteen (14) days prior to any Special Town Meeting.

Section 4. Quorum

For all special Town Meetings a quorum of 50 voters and for all Annual Town Meetings a quorum of 100 voters shall be required for such meetings.

Section 5. Conduction of Town Meetings

“Town Meeting Time and Hand Book on Parliamentary Law” shall be used for conducting of town meetings.

Section 6. Town Meeting Articles

Any article that is voted on at the Annual Town Meeting may not be brought up again except at the next Annual Town Meeting, or at any town meeting,

1. in case of emergency as determined by the Board of Selectmen; or,
2. on petition of 100 registered voters.

Section 7. Secret Ballot

If requested by ten percent (10%) of the voters required for a quorum at any town meeting, the Moderator shall determine by a hand vote if a majority desire that the vote be taken by secret ballot on any article placed before any town meeting.

Section 8. Penalty for Breach of By-law

The penalty for the breach of any By-law of the Town of Spencer shall be a fine not exceeding three hundred dollars (\$300.00) for each offense.

Section 9. Repeal of Previous By-laws

All General By-laws adopted by the Town prior to the acceptance of these by-laws are hereby repealed.

Section 10. Collective Bargaining Issues Submitted for Town Warrant

No collective bargaining unit may submit for the Town Warrant any addition to, modification of, or deletion from the current bargaining agreement with the Town.

Section 11. Two-Thirds Vote Requirement

“On matters requiring a two-thirds vote by statute a count need not be taken unless the vote so declared is immediately questioned by seven or more voters as provided in General Laws, Chapter 39, Section 15, or as otherwise provided in these By-laws”. (Added 5/8/97 Art.24).

ARTICLE 2

Town Administration

Section 1. Town Hall Office Hours

All Town Hall offices staffed by two or more persons shall be open during the hour of 12:00 AM to 1:00 PM to better serve the public.

Section 2. Procurement Officer

Unless otherwise provided by vote of the Town Meeting, the Board of Selectmen, consistent with the provision of M.G.L. Chapter 30B, is authorized to appoint a Chief Procurement Officer, without additional expense to the Town, as defined in Chapter 30B to act as a purchasing agent to procure all supplies and services for the Town and every governmental body thereof, with authority to delegate said responsibility as permitted by Chapter 30B.

Section 3. Town Audit

There shall be an annual audit of the Town's accounts under the supervision of the Director of Accounts of the Department of Corporations and Taxation in accordance with the provisions of Section 35, Chapter 44, Massachusetts General Laws.

Section 4. Sale of Town Property

The Board of Selectmen is hereby authorized to sell and transfer title in the name of the Town for any land obtained through tax foreclosures, land obtained in lieu of taxes and land obtained as a gift, with prior notification of the Conservation Commission. They shall give notice of the time and place of sale by posting a notice of sale on the Town Bulletin Board outside the Town Clerk's office and advertising in a newspaper in general circulation 14 days at least before the sale and may reject any and all bids which they deem inadequate.

Section 5. Collection of Fees

Except as otherwise provided by law, all fees collected by any officer of the Town on behalf of the Town shall be paid to the Town Treasurer; and a true return thereof shall be made to the Town Accountant stating the accounts upon which such amounts were received.

Section 6. Settlement of Claims

The Board of Selectmen is hereby authorized to prosecute, defend or settle all suits or claims for and against the Town.

Section 7. Town Records

All Town records shall be kept in the Town Hall or in the offices of the various departments.

Section 8. Suspension of Permits and/or Licenses

Any board, officer, or department of the Town of Spencer is hereby authorized after formal hearing to revoke or suspend any local license or permit including renewals or transfers issued by any board, officer, or department, for any person, corporation, or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges pursuant to M.G.L. Chapter 40, Section 57.

Section 9. Town Expenditures Subject to Bids

The Town shall follow the Uniform Procurement Act, Chapter 30B of the Massachusetts General Laws, with respect to every contract for the procurement of supplies, services or real property and for disposing of supplies or real property. All officers and departments may request bids or proposals prior to the insertion of articles in any warrant for any Annual or Special Town Meeting. (Amended 5/8/97 Art.34)

Section 10. Additional Funding

Any request by a department head to the Board of Selectmen for additional funding for his/her department or a request for transfers to be made from one account to another within said department must be accompanied by a complete explanation as to why the request is being made. A copy of the explanation shall accompany the request at the time the request is presented to the Finance Committee for its consideration and recommendation.

Section 11. Residency Requirement – Administrative Officers

The Chief of Police, Fire Chief, Superintendent of Public Works and Town Administrator shall reside within 15 miles of the limits of the Town of Spencer within six (6) months from the date of completion of any probationary period of employment. Said distance shall be measured from the closest border limits of the city or town in which said employee lives. (Amended 11/6/97 Art. 1)

Section 12. Employment Contracts (Added 5/9/2002 Art. 12)

The Town Administrator may negotiate and execute an employment contract for a period of time not to exceed three years to provide for the performance standards, salary, fringe benefits, and other conditions of employment, including but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performances of duties or office, liability insurance, performance standards, and leave for all department heads. Such employment contract shall be subject to Board of Selectmen action under the procedures set forth in Section 8 of the Spencer Governmental Act and an appropriation of funds. Such employment contract shall be in accordance with and subject to the provisions of the Spencer Governmental Act and shall prevail over any conflicting provisions of any town personnel by-law, rule, or regulation.

Section 13: Utility Fund Establishment and Maintenance (Added 11/17/2005 Art. 12)

Funds received and expended on behalf of the Water Fund and the Sewer Fund shall be accounted for in a Utility "Enterprise Fund" in accordance with M.G.L. Ch. 44 §53F ½, Generally Accepted Accounting Practices and such regulations and accounting standards as may from time to time be established by the Town Accountant and Massachusetts Department of Revenue.

Effective Date: This by-law amendment shall be effective July 1, 2006, upon approval of the Massachusetts Attorney General and its posting in accordance with M.G.L. Ch. 40 §32.

ARTICLE 3
Town Clerk

Section 1. Certification of Appropriations

The Town Clerk shall certify to the Board of Assessors and the Town Accountant votes appropriating money and the provisions made for raising same. He/she shall notify all boards, officers and committees of all votes passed at any Town Meeting in any way affecting them.

Section 2. Record Keeping

The Town Clerk shall be responsible for the safe keeping of all books, papers, plans and records which may be deposited in the Town vault and shall not allow any of them to be taken from his/her custody.

Section 3. Publication in Annual Report

The Town Clerk shall publish in the annual report of the Town a summary of the proceeding of all town meetings that have been held during the year.

Section 4. General Responsibilities

The Town Clerk shall perform all duties set forth in the Massachusetts General Laws, those required by the Secretary of State and the Registry of Vital Statistics and those dictated by Town Meeting vote.

ARTICLE 4

Finance Committee

Section 1. Establishment, Terms and Conflicting Service - rev. 11/18/04 Art. 6

There shall be a Finance Committee consisting of 15 residents of the Town. They shall be appointed by the Town Moderator who shall also serve as an additional non-voting Ex Officio member. A term shall run from July 1 of a year to June 30 of an ending year. The terms shall be staggered such that one-third of the fifteen members shall have their term expire on June 30 of the ending year. Any term which shall not be in compliance with this section, as of the date of adoption of this by-law, shall be extended to June 30 of the ending year such that its term shall so comply.

Members shall serve until their successor is appointed and duly qualified. A vacancy in an appointed position shall be filled for the balance of the unexpired term of the vacant position.

Town Officers and Town employees, other than the Moderator, elected or appointed, are not eligible to be members. Any member of said committee who shall be elected or appointed to Town office, except as provided for herein, shall forthwith, upon his qualification in such office, and any other member who shall move from Town shall, upon moving, cease to be a member of said committee. Members absent from one-third of the called meetings in any fiscal year may, after notice of no less than 14 days, be removed by a two-thirds vote of the committee present and voting at the next regularly scheduled meeting after said notice has been sent. Members of the committee, except the secretary, shall serve without compensation. Said committee shall choose its own officers.

Members may serve upon the Personnel Board and any Committee for which membership is specifically provided for in these By-laws. In addition, Members may serve upon temporary ad hoc committees convened for a single purpose, such as the screening of applications for employment or appointment and examination of policy issues, when such bodies will be dissolved upon the completion of their work.

Section 2. Vacancies

In the event of a vacancy in its membership, the Finance Committee member resigning shall notify the Town Clerk in writing, if possible. Otherwise, the Finance Committee shall notify the Town Clerk in writing; the Moderator shall thereupon fill such vacancy for the unexpired term.

Section 3. Recommendations

The Finance Committee shall consider all matters of business included within the articles of any warrant for a town meeting and shall, after due consideration, report thereon, in a report printed and distributed, its recommendation as to each article. For the annual town meeting the Finance Committee shall distribute its report at least four days in advance of the meeting. The recommendations shall be those of a majority of the members of the committee present and voting but this shall not be construed to prevent recommendations by a minority. The report shall state the total amount of the appropriations recommended by them on the entire warrant. The report for the Annual Town Meeting shall contain a statement of the doings of the committee during the past year along with such suggestions as it may deem advisable on any

matters pertaining to the welfare of the Town. It may issue recommendations on referenda and other matters on any ballot other than the choice of individuals for office.

Section 4. Inspection of Records

The Finance Committee shall have the authority at any time to investigate the books, accounts and management of any department of the Town, and to employ such experts and other assistance as they may deem advisable for that purpose; and the books and accounts of all departments and officers of the Town shall be open to the inspection of the committee and any persons employed by it for that purpose. The committee may summon the attendance of witnesses under M.G.L. Ch. 233 Secs. 8.10. The committee may appoint sub-committees of its members and delegate to them such of its powers as it deems expedient.

Section 5. Submission of Estimates

The various Town boards, officers and committees charged with the expenditure of Town money shall, not later than February 1st of each year, prepare detailed estimates of the amounts deemed by them necessary for the administration of their respective offices or departments for the ensuing year.

Section 6. Budget Recommendations

The Finance Committee shall duly consider the estimates and statements filed by the Town boards, officers and committees and may confer with said boards, officers and committees and hold hearings if they deem it advisable. The Finance Committee shall thereupon recommend such sums in such division of items as it considers necessary and convenient.

Section 7. Public Hearing on Budgets

The Finance Committee shall hold a public hearing on the proposed annual budget at least two (2) weeks prior to the Annual Town Meeting.

ARTICLE 5
Other Committees, Commissions, Officers

Section 1. Council on Aging

There is hereby established a Council on Aging consisting of from seven (7) to eleven (11) citizens of this Town, appointed by the Board of Selectmen for terms not to exceed four (4) years for any member. Said terms shall be staggered so that no more than three (3) appointments shall be made in any calendar year. Members can be reappointed for concurrent terms. The duties of said Council on Aging shall be to:

1. Identify the total needs of the community's elderly population;
2. Educate the community and enlist support and participation of all citizens concerning these needs;
3. Design, promote or implement services to fill these needs, or coordinate present existing services in the community;
4. Promote and support any other programs which are designed to assist elderly programs in the community.

Said Council on Aging shall cooperate with the Commonwealth of Massachusetts Office of Elder Affairs and shall be cognizant of all state and federal legislation concerning funding, information exchange and program planning which exists for better community programming for the elderly. Said Council on Aging shall give an annual report to the Board of Selectmen with a copy of that directed to the Commonwealth of Massachusetts Officer of Elder Affairs.

Section 2. Charitable Needs Commission

There is hereby established a Charitable Needs Commission consisting of five (5) citizens of Spencer appointed by the Board of Selectmen for terms not to exceed three (3) years for any member. Said terms shall be staggered so that not more than three (3) appointments shall be made in a calendar year. Members can be reappointed for successive terms. The duties of the Charitable Needs Commission shall be to:

1. To administer funds for the elderly and needy of the Town according to the manner established by wills or previous town meetings for the Melinda A. Prouty Fund, the Harrington Fund and the fund established for free hospital beds at Memorial, St. Vincent and Hahnemann hospitals in the City of Worcester, or any other charitable funds;
2. To administer the Drury Fund effective on the date of the 1980 Annual Town Elections;
3. To render to the Annual Town Meeting in each year, beginning 1980, a report of its doings for the foregoing year.

Section 3. Capital Improvement Planning Committee (Amended 5/6/2004 Art. 14)

1. There shall be established a committee to be known as the Capital Improvement Planning Committee (hereafter, the "Committee") composed of

- one (1) member of the SelectBoard,
- one (1) member of the Finance Committee,
- one (1) member of the Planning Board,
- two (2) at-large inhabitants of the Town of Spencer,

The Town Administrator and one person to be selected by the Town Administrator from among the Board of Assessors, Town Accountant, Town Collector and Town Treasurer, will also serve on the Committee, ex-officio, without voting privileges.

Neither of the two (2) at-large inhabitants of the Town of Spencer, above designated, may be employed by the Town of Spencer or serve the Town in any other elective or appointive capacity or have members of their immediate family who are so employed or so serve. Immediate family is defined to mean the inhabitant, his or her spouse or spousal equivalent, parents, children, brothers and sisters.

The SelectBoard, Finance Committee and Planning Board members will serve initially until the following June 30th and thereafter for one year terms to expire on June 30th of each succeeding year. One at-large inhabitant member will serve initially until the second June 30th date following appointment and thereafter for three year terms. The second at-large inhabitant member will serve initially until the third June 30th date following appointment and thereafter for three year terms.

The committee will choose its own officers at such times as it will determine by majority vote.

2. The Committee will study the proposed capital projects and improvements involving tangible assets and projects which (1) have a useful life of not less than five years and (2) cost over \$10,000 [or such other sum which conforms with Statement #34 of the Governmental Accounting Standards Board (GASB 34) or such future equivalent capitalization schedules]. All officers, boards and committees of the Town, including the School District, Water Department, Sewer Department and any enterprise fund department, will give to the Town Administrator by November 1st of each year, on forms prescribed by the Committee, information and requests concerning all of its anticipated projects requiring Town Meeting action during the ensuing six years. On or before the following December 1st, the Town Administrator will assemble the information and requests submitted to him or her and present the same to the Committee for its deliberation and action. The Committee will consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the Town and thereafter render its Report and recommendations to the Town Administrator as set forth in Section 3 hereof.

No appropriation at a Town Meeting will be voted for a capital improvement purchase or project requested by a department, board or commission unless the proposed capital improvement is considered in the Committee's Report (as set forth below) or the Committee has submitted a report to the Town Administrator explaining the omission. It is the intent of this paragraph that no capital improvement purchase or project will be made or undertaken

unless the same has been previously considered by the Committee. This provision is not applicable to any capital improvements placed on the town meeting warrant by citizen petition, as governed by the Massachusetts General Laws.

In the case of an unusual, unanticipated or emergency capital improvement request that arises after the December 1st deadline, such request will be submitted to the Committee for consideration. The Committee will make its recommendation to the Town Administrator as to what further action may be necessary.

3. The Committee will prepare an annual report recommending a Capital Improvement Budget for the next fiscal year and a Capital Improvement Program, including therein its recommended capital improvements for the following five years. On or before January 15th of each year, the Report will be submitted to the Town Administrator for his or her consideration and approval, after consultation with the SelectBoard. The Town Administrator will thereafter submit his or her approved Capital Budget to the Annual Town Meeting for adoption, in whole or in part, by the Town.

4. Such Capital Improvement Program, after its approval by the Town Administrator, will permit the expenditure on projects included therein from departmental budgets for preliminary or ancillary matters relating to the project or purchase, such as for surveys, architectural or engineering advice, options or appraisals; but no such expenditure will be incurred which have not been so approved by the Town through the appropriation of sums in the current fiscal year or in prior years, or for preliminary planning for projects to be undertaken more than five years in the future.

5. The Committee's Report and the Town Administrator's recommended Capital Budget will be published and made available in a manner consistent with the distribution of the Finance Committee Report. The Committee will deposit its original Report with the Town Clerk.

Section 4. Inspector of Gas Piping and Appliances

The Board of Selectmen shall annually appoint an Inspector of Gas Piping and Appliances in buildings as provided under Chapter 143, Section 3-0 of the General Laws who shall be a licensed plumber or a licensed gas fitter. Said Inspector shall enforce the Rules and Regulations adopted by the Board established under Section 12H of Chapter 25 of the General Laws.

Section 5. Inspector of Buildings (Amended 5/6/2004 Art. 12)

The Inspector of Buildings shall be appointed for a term of three years.

Section 6. Fire Department (Added 5/9/2002 Art.13).

There shall be established in the Town of Spencer a Fire Department which shall be under the supervision of an officer designated as the Fire Chief. Such a Chief shall be appointed for a term of three (3) years.

The Fire Chief shall, from time to time, make suitable regulations governing the Fire Department and the members thereof, subject to the approval of the Board of Selectmen; provided, however, that such regulations shall become effective without such approval upon the failure of the Board of Selectmen to take action thereon within thirty days after they have been submitted to it by the Fire Chief.

The Fire Chief shall be in immediate control of all property used by the Fire Department, and the officers and firefighters, to whom the Fire Chief shall assign their respective duties including making special duty assignments and who shall obey the Fire Chief's orders. Subject to the provisions of the Spencer Governmental Act, the Town Administrator shall appoint the Fire Chief and other officers and firefighters and may remove them for cause at any time after a hearing.

The Board of Fire Engineers is hereby abolished with the adoption of this by-law. All current employees in the Fire Department will retain their current rank subject to their promotion, resignation, other vacating of their office, or their termination/demotion for cause.

Section 7. Parks and Recreation Department (Added 5/6/2004 Art. 13)

1. Establishment, Composition, and Terms:

There shall be established in the Town of Spencer, a Parks and Recreation Department which shall operate under the oversight of a Parks and Recreation Commission, subject to the provisions of the Spencer Governmental Act. The Commission shall consist of nine members who shall serve for a term of three years. A term shall run from July 1 of a year to June 30 of an ending year. Members shall be eligible to serve successive terms.

Three (3) of the members shall be elected at the Town's annual general election. The initial filling of these positions shall be from those persons holding the office of Park Commissioner on the effective date of this by-law, and for such terms as originally voted, subject to extension of a term to June 30 of the calendar year in which it was to have expired.

If a vacancy occurs in any of these elected positions, the remaining members of the Commission shall give written notice thereof, within 30 days of said vacancy, to the Town Administrator who shall schedule a joint meeting of the Board of Selectmen and all of the remaining members of the Commission to fill such vacancy by roll call vote. A majority of the votes of all the officers entitled to vote shall be necessary to fill such vacancy. The person so elected shall be a registered voter of the Town and shall serve until the next general election. At such a general election, the position shall be listed on the ballot for the balance of the unexpired term. As used in this paragraph, the term "vacancy" includes a failure to elect.

Six (6) of the members shall be appointed. They shall serve until their successor is appointed and duly qualified. A vacancy in an appointed position shall be filled for the balance of the unexpired term of the vacant position.

The initial appointments shall be drawn from those willing to accept appointment from among the current members of the Athletic Field Committee, Youth Commission and Recreation Commission. No more than three persons may come from each of these three entities being incorporated into the Commission. Vacant positions remaining after this process may then be filled from new applicants.

The initial appointments shall be staggered such that one third of the appointed members shall serve for one year or portion thereof, one third of the appointed members shall serve for two years or portion thereof, and one third of the appointed members shall serve for three years or portion thereof, such that each term shall end on the 30th day of June.

2. Purpose:

The Commission shall be a policy-making board responsible for providing year-round high quality indoor and outdoor recreation activities for children and adults with varying interests and physical abilities. It shall deliver diverse culturally, socially, mentally and physically based programs. The Commission shall establish suitable policies, and guidelines, relating to the programs it shall offer, and the use, maintenance, and improvement of the facilities under its oversight.

3. Organization and Staffing:

Upon its creation, and annually at its first business meeting in July thereafter, the Commission shall elect a Chairman and Clerk from amongst its members. The Clerk shall act as Chairman in his or her absence. The Commission shall oversee such supervisory and programmatic staff as the Town shall provide for by appropriation.

4. Facilities:

It shall have oversight of the following facilities:

- Luther Hill Park
- O'Gara Park
- Powder Mill Park
- Ralph Warren Park
- Bemis Memorial Park
- Isaac Prouty Park
- South Spencer Rail Trail

together with such facilities which may subsequently be assigned to it by action of the Town Meeting, Board of Selectmen or Town Administrator in keeping with their statutory authority. It shall advise the Board of Selectmen and Town Administrator on properties which should be acquired to further the mission of the Department.

It shall also have the power to conduct programs and activities at places other than such specifically designated facilities.

Such facilities are dedicated for the purposes of parks, playgrounds and recreation, consistent with any conditions or restrictions specified in the grant or acquisition of the property. With this dedication, the Commission is charged with exercising the highest level of land stewardship and protection while utilizing the historic, natural and man-made features of the facilities for the

additional purposes of education, cultural activity and as tools of community and economic development on behalf of the community at large. The Commission shall consult, as deemed advisable and appropriate, with other local, state, federal and public interest groups to ensure such responsibility is met.

5. Other Authority:

The Commission shall be authorized to accept grants and gifts of funds and other real and personal property and expend the same, in the name of the Town subject to the approval of the Board of Selectmen, for the purposes of laying out, improving, ornamenting, and maintaining the facilities and providing programs consistent with the purposes it is charged with herein.

The Commission shall be deemed to be a Youth Commission, as established by M.G.L. Ch. 40 §8E, and a Recreation Commission, as established by M.G.L. Ch. 45 §14, with all powers and duties as established therein.

The Commission shall subsequently perform such other statutory roles as assigned to it by action of the Town Meeting, Board of Selectmen or Town Administrator in keeping with their statutory authority.

6. Repeal of Inconsistent Town Actions & Abolition of Other Agencies:

Any previous conflicting action relating to the assignment of oversight responsibility for the facilities in section (d) above is hereby repealed.

7. Effective Date:

This Bylaw shall be effective upon approval of the Massachusetts Attorney General and its posting in accordance with M.G.L. Ch. 40 §32. (Posted July 20, 2004)

ARTICLE 6

Streets and Highways

Section 1. Excavation of Public Ways

No person, except the Superintendent of Streets, in the lawful performance of his duties, or those acting under his orders, shall make or cause to be made any excavation in a public street or way for any purpose whatever without having first obtained a written permit from the Superintendent of Streets. When an excavation is made in a street for any purpose, the person or persons by whom or for whom such excavation has been made shall cause a guard rail or other such sufficient force to be placed so as to enclose such excavation and the dirt, gravel or other material thrown therefrom; and such fence shall be maintained the whole time that such excavation continues. The Superintendent of Streets may impose any reasonable conditions governing the lighting, guarding, policing, or manner of carrying on the work. The way must be properly repaired in such manner as to cause no damage to any vehicles.

Section 2. Clerk of the Works

The Highway Superintendent shall be authorized to require, at his discretion, the appointment of a qualified Clerk of the Works to oversee such excavation. If the Clerk is a Town employee, the permit holder shall reimburse the Town for the Clerk's services at the prevailing compensation rate for such employee.

Section 3. Obstruction of Streets and Sidewalks

No person shall place or cause to be placed in any of the public streets, sidewalks, or squares, any dirt, rubbish, wood, timber, snow or other material of any kind tending to obstruct the streets or sidewalks without written permission from the Highway Superintendent.

Section 4. Driveway Cuts and Drainage

There shall be no altering or installation of driveway(s) cut(s) on any roadways within the Town without the written approval of the Highway Superintendent.

In the process of constructing driveway entrances, all drainage areas must be clear and free of obstruction.

Section 5. Snow Plowing and Removal

For the purpose of removing or plowing snow and removing ice from any public way in the Town of Spencer, the Superintendent of Streets or the Chief of Police or their authorized representative may remove or cause to be removed to some convenient place, including in such term a public garage, any vehicle interfering with such work. The cost of removal and storage charges, if any, shall be paid by the owner of the vehicle to the person or persons so removing or storing such vehicle; provided, however, such charges shall not exceed the prevailing rates. There shall be no parking on any streets from November 1 through April 15 of each year between the hours of 12:01 AM and 6:00 AM except as designated by the Board of Selectmen and the Highway Superintendent.

Section 6. Distributing Handbills

No person shall throw or scatter in or about the public streets of Spencer any handbills, notices, flyers or other like instrument without a permit from the Selectmen having been first obtained.

Section 7. Fireworks Explosions

No fireworks, firecrackers or torpedoes shall be set off or exploded on any public street or sidewalk or upon any Town property in close proximity to any person or property.

Section 8. Trash and Littering

1. No person shall deposit on a public way or public place any household, commercial or environmental waste (i.e. leaves, brush, dirt, gravel).
2. No person shall deposit on private property or private way any household or commercial waste either for permanent or temporary storage unless approved by the Board of Health, meets zoning by-laws, Conservation Commission regulations when it is appropriate, and meets all requirements established under M.G.L. Chapter 111, Section 150A.
3. Homeowners and commercial establishments may deposit waste three (3) feet from a public or private way or in a designed area for the purpose of routine weekly waste pickup provided that all waste is placed in a closed container that is suitable for handling by a licensed hauler.
4. Whoever violates the provisions of the by-law shall be fined for each offense within the calendar year in accordance with the following schedule:

1st offense - \$ 50.00
2nd offense - \$100.00
3rd offense - \$150.00
4th and subsequent offenses - \$200.00

Each week during which the violation continues to occur shall be deemed a separate offense.

Section 9. Temporary Repairs in Private Ways (added 6/18/98 Art.16)

1. The town shall be authorized to make temporary repairs in private ways within the Town of Spencer, subject to the following terms and conditions:
2. Such temporary repairs may include the filling of holes and grading and leveling of surfaces, the oiling or tarring of ways and the covering of said oil or tar with sand or gravel, the paving of the private way and the installation of drainage.
3. No such repair shall be made unless the Board of Selectmen votes that such repairs are required by public safety or necessity.

4. This authority to make temporary repairs to private ways may be exercised by the Board of Selectmen only when the necessary funds therefore are available in the Highway Department budget and only when Highway Department personnel and equipment are not then needed for the care and maintenance of the Town's Public ways; or, there shall be an appropriation of funds therefore at Town Meeting or a cash deposit by owners of the private way of funds sufficient to pay for such repairs. If a Town Meeting makes an appropriation for the repair of a particular private way, the Town shall assess betterments to recover the entire cost of the repairs from all the owners of the private way. The apportionment of said betterment shall not exceed five equal annual portions. The Town shall follow M.G.L. Chapter 80 as it further relates to the assessment of betterments.
5. Such repairs may be made only if the owners of at least two thirds (2/3) of the lots abutting the private way petition the Board of Selectmen. Ownership shall be determined by the most recent deeds of record.
6. Such repairs may be made only if the private way is open to the public and has been open to the public for at least the previous ten (10) years.
7. This by-law is enacted only for the purpose of authorizing the expenditure of public funds to make temporary repairs to private ways and no duty or obligation is either hereby placed on the Highway Department or hereby assumed by the Town to thereafter maintain and repair said private ways so that they are reasonably safe and convenient for travel by being free from defects or a want of repair.
8. The making of such temporary repairs to private ways, no matter how often or to what extent, shall not constitute an acceptance by the Town of such private ways as public ways. In any legal action brought against the Town for damages or injury to person or property suffered by reason of a defect or want of repair in a private way which has been so repaired, the Town reserves the right to deny in any such legal action, that the said repaired way is a public way.
9. In the event that a person suffers damages to his person or property by reason of the Town's negligence in making of such temporary repairs, the Town shall not be liable for damages caused by such negligence to any greater extent than if such repairs were done on a public way.

ARTICLE 7

Wetland Protection

Section 1. Purpose

The purpose of this by-law is to protect the wetlands, related water resources and adjoining land areas in Spencer by prior review and control of activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, fisheries and wildlife habitat, recreation, aesthetics, agriculture and aquaculture values (collectively, the “wetland values protected by this by-law”).

Section 2. Definitions

The following definitions shall apply in the interpretation and implementation of this by-law.

The term “person” shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town by-laws, administrative agency, public or quasi-public corporation or body, this municipality and any other legal entity, its legal representative, agents or assigns.

The term “alter” shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this by-law.

1. Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind;
2. Changing of pre-existing drainage characteristics, sedimentation patterns, flow patterns or flood retention characteristics;
3. Changes in water level or water table;
4. Dumping, discharging or filling with any material which may degrade water quality;
5. Placing of fill or removal of material which would alter elevation;
6. Driving of piles; erection or repair of buildings or structures of any kind;
7. Placing of obstructions or objects in water;
8. Destruction of plant life including cutting of trees;
9. Changing water temperature, biochemical oxygen demand or other physical or chemical characteristics of water;
10. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater;
11. Application of pesticides or herbicides.

The term “project” shall include any contiguous area under development or any area of contiguous lots which are under development at the same time.

The term “Order of Conditions” is synonymous with the term “permit” for an approval and “denial” for a disapproval by the Commission.

Except as otherwise provided in regulations of the Commission, the definitions of terms in this by-law shall be as set forth in the Wetlands Protection Act, M.G.L., Ch. 131, Section 40.

Section 3. Jurisdiction

- 3.1 Except as permitted by the Conservation Commission or as provided in this by-law, no person shall remove, fill, dredge, build upon or alter the following resource areas:
 - 3.1.1 within 100 feet of any freshwater wetland, marsh, wet meadow, bog or swamp;
 - 3.1.2 within 100 feet of any bank;
 - 3.1.3 within 100 feet of any body of water, lake, pond or stream;
 - 3.1.4 any land under said waters;
 - 3.1.5 within 100 feet of any land subject to flooding or inundation by groundwater or surface water; or
 - 3.1.6 within 200 feet of a river as defined under the Rivers Protection Act.

Section 4. Exceptions

- 4.1 The following specific exemptions will be allowed by right provided the Commission is provided with oral notice of the proposed activities prior to the commencement of disturbance. The oral notice must be followed by written notification within 14 days of oral approval.
 - 4.1.1 The Notice of Intent required by this by-law shall not be required for maintaining, repairing or replacing, but not substantially changing or enlarging, an existing lawful structure. However, oral notification must be provided a minimum of 14 days prior to the commencement of work on an existing lawful structure.
 - 4.1.2 A facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, provided that written notice has been given to the Commission not less than 14 days prior to commencement of work and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.
 - 4.1.3 The Notice of Intent required by this by-law shall not be required for work performed for normal maintenance of land in agricultural use or in aquacultural use.
 - 4.1.4 The Notice of Intent shall not apply to emergency projects necessary for the protection of the health and safety of the public, provided that such work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof. Advance notice, oral or written, must be given to the Commission prior to commencement of work or within 24 hours after commencement. The Conservation Commission or its agent must certify the work as an emergency project, provided that the work is performed only for the time and place certified by the Conservation Commission for the limited purposes necessary to abate the emergency and provided that within 21 days of commencement of an emergency project a Notice of Intent or Request for Determination shall be filed with the Commission for review as provided in this by-law.

- 4.2 Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify any project approval and order restoration and mitigation measures.

Section 5. Applications for Permits and Requests for Determination

- 5.1 A written application (Notice of Intent) shall be filed with the Commission to perform activities affecting resource areas protected by this by-law. The Notice of Intent shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with an Order of Conditions issued pursuant to this by-law.
- 5.2 The Commission, in an appropriate case, may accept as the Notice of Intent under this by-law the Notice of Intent and plans filed under the Wetlands Protection Act, M.G.L., Ch. 131, Section 40.
- 5.3 Any person desiring to know whether or not proposed activity or an area is subject to this by-law may file a Request for Determination of Applicability from the Commission. Such a Request for determination shall contain data and plans deemed necessary by the Commission. In an appropriate case, the Commission may accept a Request for Determination of Applicability filed under the Wetlands Protection Act, M.G.L., Ch. 131, Section 40 as a Request for Determination under this by-law.
- 5.4 At the time of a Notice of Intent or Request for Determination, the applicant shall pay a filing fee specified in the regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, M.G.L., Ch. 131, Section 40.
- 5.5 In addition, the Commission is authorized to require the applicant to pay the costs and expenses of any expert consultant including, but not limited to, professional engineers, registered land surveyors, wildlife biologists, fisheries biologists, hydrologists, botanists, ecologists and aquatic weed control specialists deemed necessary by the Commission to review the Notice of Intent or Request for Determination in order to assess impacts on the wetland values protected by this by-law. These costs and expenses shall not exceed 20% of the estimated total cost of the project.
- 5.6 The Commission shall waive the filing fee for a Notice of Intent or Request for Determination filed by the Town of Spencer. Costs relating to publication of required notices, consultants or other necessary expenses to comply with this by-law or the Act shall not be exempt.
- 5.7 The Commission shall have the option to waive fees for a Request for Determination filed by a person having demonstrated no financial connection with the property which is the subject of the request.

Section 6. Notice and Hearings

- 6.1 Any person filing an application (Notice of Intent) shall at the same time send a copy of the first page of the application, by certified mail (return receipt requested) or hand delivery, to all abutters at their mailing addresses as it appears on an Assessor's certified abutters list and shown on the most recent applicable tax list of the Assessors, including owners of land within 300 feet of the property line on the opposite side of an official street and abutters to the abutters within 300 feet of the property line of the applicant.
- 6.2 The notice to abutters shall also state where copies of the completed application (including plans) may be examined.
- 6.3 An affidavit of the persons providing such notice, with a copy of the notice and a list of the names and mailing addresses of those persons notified shall be filed with the Commission.
- 6.4 When a person filing a Request for Determination is other than the owner, the request, the notice of hearing and the Determination of Applicability shall be sent by the Commission to the owner as well as to the person making the request. Additionally, an applicant other than the owner must provide a demonstration of standing relative to the property with the Request for Determination.
- 6.5 The Commission shall schedule a date and time for public hearing on all Notice of Intent and Determinations of Applicability once all fees and notices have been received by the Spencer Conservation.
- 6.6 The applicant shall publish, at their expense, notice of the public hearing to be conducted by the applicant in a newspaper of general circulation in the Town of Spencer not less than five (5) working days prior to the public hearing. The Town of Spencer, by rule or regulation, may select a specific newspaper.
- 6.7 The Commission shall commence the public hearing within 21 days from receipt of a completed Notice of Intent or Request for Determination unless an extension is authorized in writing by the applicant. No package will be considered complete until all notifications and fees have been received by the Spencer Conservation Commission.
- 6.8 The Commission shall issue its Order of Conditions or Request for Determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.
- 6.9 The Commission, in an appropriate case, may combine its hearing under this by-law with the hearing conducted under the Wetlands Protect Act, M.G.L., Ch. 131, Section 40.
- 6.10 The Commission shall have the authority to continue a hearing to a date specified at the hearing, for reasons stated at the hearing, which may include but not limited to receipt of additional information offered by the applicant or others, information and plans required of the applicant, deemed necessary by the Commission at its discretion, or comments and recommendations of boards and officials listed in Section 6.
- 6.11 In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

Section 7. Coordination With Other Boards

- 7.1 Any person filing a Notice of Intent which requires a notice to abutters in Section 5 shall provide a copy thereof at the same time to all affected Town entities, including but not limited to the Board of Selectmen, Town Clerk, Planning Board, Zoning Board of Appeals, Board of Health, Building Inspector, Town Administrator, Water Department and Highway Department.
- 7.2 An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission a minimum of 5 days prior to the date of the public hearing.
- 7.3 Any Town entity including but not limited to the Building Inspector, the Zoning Board of Appeals, the Planning Board, the Highway Department, the Board of Health and the Health Inspector shall notify the applicant and the Commission of any building permit, Planning Board permit, Board of Health permit or Highway Department activity involving earth alteration in an area which, in their estimation, is under the jurisdiction of this by-law. Such boards and officials shall, if appropriate, make written comments and recommendations to the Commission which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any such comments and recommendations and to respond to them at a hearing of the Commission prior to final action.

Section 8. Permits, Determinations and Conditions

- 8.1 If the Commission, after a public hearing, determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the wetland values protected by the by-law, the Commission, within 21 days of the close of the hearing, shall issue an Order of Conditions for the activities requested.
- 8.2 The Commission shall impose conditions which the Commission deems necessary or desirable to protect those values. All activities stated in the Order of Conditions shall be complied with in their entirety and are subject to inspection at any time during the proposed project.
- 8.3 For projects where discretionary authority of the Commission is necessary under M.G.L., Ch. 131, Sec. 40, the Commission may use the applicant's past performance under M.G.L., Ch. 131, Sec. 40 as guidance.
- 8.4 The Commission is empowered to deny a permit for failure to meet the requirements of the by-law; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by this by-law; and for failure to demonstrate that conditions are adequate to protect those wetland values.
- 8.5 An Order of Conditions shall expire three (3) years from the date of issuance. Notwithstanding the above, the Commission at its discretion may issue a permit expiring five (5) years from the date of issuance for recurring or continuous maintenance work,

provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed for additional one (1) year periods provided that a request for an Extension Permit is received, in writing, by the Commission 30 days prior to expiration.

- 8.6 For good cause the Commission may revoke or modify an Order of Conditions issued under this by-law after notice to the holder of the permit, notice to the public, abutters and Town boards pursuant to Section 5 and a public hearing.
- 8.7 The Commission in an appropriate case may combine the Order of Conditions on an application issued under this by-law with the Order of Conditions issued under the Wetlands Protection Act.
- 8.8 No work proposed in any application shall be undertaken until the Order of Conditions issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected thereby be registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies, in writing, to the Commission that the permit has been so recorded.

Section 9. Regulations

- 9.1 After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this by-law. Failure by the Commission to promulgate such rules and regulations, or a legal declaration of their invalidity by a court of law, shall not act to suspend or invalidate the effect of this by-law.

Section 10. Security

- 10.1 As part of an Order of Conditions for a larger project requiring notice to abutters in Section 5 issued under this by-law, in addition to any security required by any other municipal or State board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:
 - 10.1.1 By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient, in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate Of Compliance for work performed pursuant to the permit;
 - 10.1.2 By a Conservation Restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

Section 11. Enforcement

- 11.1 The Commission, its agents, officers and employees shall have the authority to enter upon privately owned land for the purpose of performing their duties under this by-law and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary.
- 11.2 The Commission shall have the authority to enforce this by-law, its regulations and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions.
- 11.3 Upon request of the Commission, the Board of Selectmen and the Town Counsel may take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police may take legal action for enforcement under criminal law.
- 11.4 Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.
- 11.5 Prior to issuance of any fine, the Commission shall notify the violator in writing. Each day, or portion thereof, during which a violation continues shall constitute a separate offense and each provision of the by-law, regulations or Order of Conditions violated shall constitute a separate offense.
- 11.6 As an alternative to non-criminal prosecution in a specific case, the Commission may elect to utilize the criminal disposition procedure set forth in M.G.L., Ch. 40, Section 21D.
- 11.7 All fines will be paid to the Wetlands Account.

Section 12. Burden of Proof

- 12.1 The applicant for a Notice of Intent shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant or cumulative effect upon the wetlands values protected by this Bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to issue a denial or grant a permit with conditions.

Section 13. Appeals

- 13.1 A decision of the Commission shall be reviewable in the Superior Court in accordance with M.G.L., Ch. 249, Section 4.

Section 14. Relation to the Wetlands Protection Act

- 14.1 This by-law is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Statutes, independent of the Wetland Protection Act, M.G.L., Ch. 131, Section 40, and regulation thereunder.

Section 15. Severability

- 15.1 The invalidity of any sections or provisions of this by-law shall not invalidate any other section or provision thereof, nor shall it invalidate any Order of Conditions or Determination of Applicability which previously has been issued.

Section 16. Special Conditions

- 16.1 Proposed destruction of designated wetlands areas as defined in the Wetland Protection Act, M.G.L., Ch. 131, Section 40 shall be restored at a ratio of 1.5 times the original land area. The restoration area will be monitored for a period of no less than five years by the applicant or by an independent consultant appointed by the Commission. Any failed portion of the restored area, including but not limited to the vegetation, hydric soils, and animal habitats, must be repaired as to sustain the function of the wetland area. A report from the monitoring party will be required stating the level of restoration at a period of one, three and five years following project completion. This sub-section does not limit the Commission's ability to extend the period of restoration if sufficient restoration has not been achieved within five years.
- 16.2 A stormwater management plan is required for all subdivisions and/or divisions of more than two lots. The plan shall include but not limited to plans, calculations, computer models and design specifications to demonstrate no increase in runoff from the proposed subdivision.
- 16.3 Hay bales and siltation fence are required on the down-slope side of all proposed activities within the buffer zone so as to isolated and protect all resource areas. Hay bales shall be placed in a contiguous line and double staked. Silt fence shall be installed immediately behind the line of hay bales with no less than six (6) inches of fabric secured below grade.
- 16.4 Any proposed activity that occurs within 40 feet of any waterline and uses hydraulic equipment shall install floating oil absorbent booms in the event of a hydraulic leak. The booms must be strung in a contiguous line and secured to the bank a minimum of twenty (20) feet on either side of the proposed activity.

ARTICLE 8

Law Enforcement

Section 1. Operator of Vehicles

No driver of a vehicle shall stop the same with its left side to the curb, sidewalk, or side of the street.

Unless in an emergency or to allow another vehicle or pedestrian to cross its way, no driver of a vehicle shall stop the same in any street except close to the curb nor in such a way as to obstruct any street crossing.

Section 2. Diversion of Traffic

A police officer may divert either vehicles or pedestrians when necessary to avoid congestion or when necessary for public safety or convenience; and no person having charge of a vehicle may refuse or neglect to drive, stop, place or park the same as directed by a police officer.

Section 3. Door-to-door Sales

No person or persons as defined by M.G.L. Ch. 93A Section 1(a) shall solicit, canvass, or distribute with intent to sell, any item or product door-to-door within the Town of Spencer unless said person or persons have received a license permitting the soliciting, canvassing or selling from the Chief of Police. A license shall be granted upon showing that such solicitation, canvassing or selling is in conformance with the laws of the Commonwealth of Massachusetts and does not constitute any unethical, illegal or deceptive practice as defined by Massachusetts General Laws Chapters 93A and 101, and any rules and regulations promulgated by the Attorney General thereunder. A license, when issued, shall be granted for specific dates; and the fees for this license shall be set by the Board of Selectmen, collected by the Police Department and turned over to the Town Treasurer to be deposited in the General Fund. Local charitable non-profit organizations shall be exempt. Whoever violates this by-law shall be punished by a fine not to exceed \$200.00.

Section 4. Projectiles Endangering Public Safety

No person shall throw stones or snowballs or any other missiles in any street in a manner to endanger any person or property therein.

Section 5. Posting of Bills or Notices

No person shall post up or affix in any manner any bill, placard or notice either written or printed upon the fences, utility poles, guideboards, walls, bridges, trees, stones, rocks, or any other object or upon any part of any building in the Town without the previous consent of the occupant or occupants or those having charge thereof or, if there be no occupants, without the previous consent of the owners thereof.

Section 6. Public Disorderly Behavior

No person shall behave himself in a rude or disorderly or boisterous manner, or use any indecent or insulting language in any street or other public place in Town or near any dwelling house or other building therein or remain upon any sidewalk, public passageway or ways to any church or public hall or public office or upon any steps, portico or other projection from any such house or other building to the disturbance or obstruction of any person lawfully entitled to pass, inhabit or resort thereto; and no person shall sit upon any wall, fence, banks or door step facing upon any street or public place, not being the occupant or owner thereof, without the consent of the owner or occupant of the premises.

Section 7. Fireworks

No person, firm or corporation shall sell, use or authorize the sale or use of fireworks or firecrackers within the Town; and provided, however, that duly authorized wholesalers may sell fireworks and firecrackers outside the Town; and provided further that persons having a permit issued under authority of Chapter 148, Section 10A of the General Laws may purchase fireworks and display them in accordance with the provisions of said Chapter 148 of the General Laws and in compliance with the rules and regulations of the Department of Public Safety.

Section 8. Skateboards and Roller Skates

No person shall operate a skateboard or use roller skates on any sidewalk, street or public place where such activities are prohibited by posted public notice.

Section 9. Removal of Traffic Devices

No person shall willfully break, deface, or move away any official sign post, signaling, or traffic device warning barrier, lantern or other light placed or located in any street or public place for the information or direction of traffic or the protection of the public.

Section 10. Obstruction of Free Passage

No person shall stop or leave any vehicle or trailer crosswise in any street or in such a manner as to unreasonably hinder or obstruct travel over such street or sidewalk, nor at the side of any other vehicle in such a manner as to obstruct the travel of other vehicles, nor, except in case of emergency, stop or leave any such vehicles at a point nearer than 15 feet of the corner of any intersection of ways, nor within ten (10) feet of a fire hydrant.

No person shall stop a vehicle on a cross walk or in front of the entrance or exit of any driveway or alley used by other vehicles.

Section 11. Direction Signals

Every driver and every person having charge of a vehicle in any street or way in the Town of Spencer shall observe the directions indicated by any sign, signal or suitable device placed by the Board of Selectmen in or near any such street or way for the purpose of directing or controlling vehicular traffic therein.

Section 12. Parking Fees (Replaced 5/9/2002 Art. 14)

The Town accepts the provisions of Chapter 90, Section 20A-1/2 and any amendments thereto of the Massachusetts General Laws, which authorizes the Board of Selectmen to establish a schedule of Parking Penalties.

Section 13. Consumption of Liquor

In order to preserve peace and good order, no person shall publicly consume or carry an open container of any intoxicating liquor on any public property, in any cemetery, park, or schoolyard or on a public way in the Town of Spencer, unless a special permit has been granted by the Board of Selectmen for the serving and consumption of alcohol at an event which is in the public interest. Anyone violating this by-law shall be subject to arrest, without a warrant, by a Sheriff, Deputy Sheriff, Town Police Officer or State Police Officer.

Section 14. Public Decency

A. No person shall bathe or swim in any water within the Town in a state of nudity in places exposed to public view or in the immediate sight of any occupant or occupants of any dwelling house, shop or factory.

B. The following acts or conduct in or on premises licensed under M.G.L. Chapter 138, Sections 1 and 12, are deemed contrary to the public need and to the common good, and are therefore prohibited within said premises:

- (a) To employ or permit any person in or on the licensed premises while such person is unclothed or in such attire as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, cleft of the buttocks or genitals;
- (b) To employ or permit any hostess or other person to mingle with patrons while such hostess or other person is unclothed or in such attire as described in Paragraph (a) above;
- (c) To encourage or permit any person in or on the licensed premises to touch, caress or fondle the breasts or buttocks or genitals of any other person;
- (d) To employ or permit any person to wear or use any device of covering exposed to view which simulates the breasts, buttocks, pubic hair or genitals or any portions thereof;
- (e) To employ or permit any person in or on the licensed premises to perform an act or acts, or to simulate an act or acts, of:
 - (1) sexual intercourse, masturbation, sodomy, flagellation or any such acts prohibited by law;
 - (2) touching, caressing, or fondling of the breasts, buttocks or genitals of another;

- (f) To employ or permit any person in or on the licensed premises to show motion picture films, television-type cassettes, still pictures, or other photographic reproductions depicting any of the acts, or simulation of any of the acts, prohibited in paragraphs (a) - (e) inclusive, as above stated;
- (g) To employ, use the services of, or permit upon said premises licensed under M.G.L. Chapter 138 Sections 1 and 12 any employee, entertainer or other person who by his or her attire or conduct violates any general law, special act or by-law of the Town of Spencer.

Section 15. Handicapped Parking (Amended 5/19/2003 Art.19)

- (a) Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for business, shopping malls, theatres, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has the right of access as invitees or licensees, shall be required to reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a handicapped person whose vehicle bears the distinguishing parking identification plate authorized by Section 2 of Chapter 90 of Massachusetts General Laws according to the following formula:

<u>Total Parking in Lot</u>	<u>Required Minimum Number of Accessible Spaces</u>
5-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1000	2% of total
1001 and over	20 plus 1 for each 100 over 1000

One in every eight accessible spaces, but not less than one, shall be van accessible.

- (b) Parking spaces designated as reserved under the provisions of paragraph (a) shall be marked by high contrast painted lines or other high contrast delineation and identified by the use of above-grade signs indicating that they are reserved. A sign shall be located at the head of each space. The sign shall show the international symbol of *accessibility*. Van accessible spaces shall include the words "Van-Accessible". Such signs shall be permanently located at a height of not less than five feet (5'=1524 mm), not more than eight feet (8'=2438 mm) to the top of the sign. Spaces shall be as near as possible to an accessible building entrance or walkway (when such accessible building entrance walkway is required by other statute or regulation) on an accessible route at no more than 100 feet from an entrance; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be at least eight feet (8'=2438 mm) wide, plus the *access aisle*. Access aisles adjacent to accessible spaces shall be five feet (5'=1524 mm) wide minimum except when adjacent

to *van accessible spaces* the access aisle shall be a minimum of eight feet (8'=2438 mm) wide. Two accessible parking spaces may share a common access aisle. Exception: Van accessible spaces do not have to be separately provided if all required accessible parking spaces are 11 feet wide (11'=3353 mm) with a five-foot (5'=1524 mm) access aisle.

- (c) The leaving of unauthorized vehicles within parking spaces reserved for use by handicapped persons as authorized by paragraphs (a) and (b) or in such a manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way shall be prohibited.

PENALTY: Whoever violates any provision of this By-Law shall be punished by a fine of two hundred dollars (\$200.00) for each offense. Every day a violation continues after its abatement has been ordered by the Town shall constitute a separate offense.

Section 16. Fire Lane Violations

Fire Lanes – leaving of vehicles in certain private ways.

- (a) Fire Regulations: It shall be unlawful to obstruct or block a private way with a vehicle or any other means so as to prevent access by fire apparatus or equipment to any multiple family building, stores, shopping centers, schools and places of public assembly.
- (b) Fire Lanes: It shall be unlawful to obstruct or park any vehicle in any fire lane, such fire lanes to be designated by the Head of the Fire Department and posted as such. Said fire lanes shall be a distance of 12 feet from the curbing of a sidewalk in a shopping center, apartment complexes and similar locations. Where no sidewalk with curbing exists, the distance and location shall be established by the Head of the Fire Department.
- (c) The owner of record of any building affected by these sections shall provide and install signs and road markings as provided in Paragraph (b) of this section. Said signs shall be no less than 12" x 18" and shall read:

“FIRE LANE – NO PARKING – TOW ZONE”

- (d) Any object or vehicle obstructing or blocking any fire lane or private way may be removed or towed by the Town under direction of a Police Officer at the expense of the owner and without liability of the Town of Spencer.
- (e) Any person violating any of the foregoing sections may, for each offense, be punished by a fine of \$25.00. Each day that such violation continues shall constitute a separate offense.

Section 17. Unregistered Motor Vehicles

No more than two (2) unregistered motor vehicles, other than farm vehicles, shall be kept on any premises in the Town unless they are stored within a building or they are located in an area licensed under Chapter 140, Section 59 of the General Laws as amended. Each day in which more than two (2) vehicles are kept on any premises in the Town in violation of this by-law shall be a separate offense. The penalty for violation of this by-law shall be a fine of not less than \$20.00 dollars per offense.

Section 18. Operation of Automobiles on Frozen Surfaces

No person shall operate or permit the operation of any automobile or truck upon the frozen surface of any lake, pond, river, stream or waterway within the Town of Spencer. However, this by-law shall not prohibit or restrict official, emergency or authorized vehicles from operating upon the frozen surface of any lake, pond, river, stream or waterway within the Town of Spencer.

ARTICLE 9

Animal Control

Section 1. Definition of Terms

As used in this by-law, context otherwise indicates:

- A. “Dog” shall mean all animals of canine species both male and female.
- B. “Owner” shall mean any person or persons, firm, corporation or association owning, keeping or harboring a dog as herein defined.
- C. “Public Nuisance” – any dog shall be considered a public nuisance when such dog is found to be not on premises of the owner of such dog or on the premises of another person except if such dog is under restraint and control of a person competent to restrain and control said dog so that it will not be a threat to public safety. The mere muzzling of such shall not satisfy the requirements of this law.
- D. “Excessive Barking” – any dog shall be considered a public nuisance when the owner or person responsible allows said dog to annoy another person’s reasonable right to peace and quiet by continuous barking in excess of twenty (20) minutes. (Added 5/9/2002 Art.16)
- E. “Disposal of Animal Waste” – any dog shall be considered a public nuisance when the owner or person responsible fails to remove and dispose of any feces made, at the time made, by said dog on any property not owned or occupied by the owner or person responsible. (Added 5/9/2002 Art.16)
- F. “Rabies Vaccination” – any dog or cat shall be considered a public nuisance when the owner or person responsible fails to cause such dog or cat, six months of age or older, to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine, according to manufacturer’s directions, and shall cause such dog or cat to be revaccinated at intervals recommended by the manufacturer, the vaccination tag shall be secured by the owner or person responsible to the collar or harness to be worn by the dog or cat; provided, however, that the owner of a cat may choose not to affix a tag to his/her cat, but shall have the tag available for inspection. (Added 5/19/2003 Art. 20)

Section 2. Dog as a Public Nuisance

No owner or keeper of any dog shall permit such dog, whether licensed or unlicensed, to become a public nuisance within the Town of Spencer at any time.

Section 3. Impounding

It shall be the duty of the Animal Control Officer to investigate complaints concerning any dogs which are alleged to be in violation of this by-law and to apprehend any dog found by him/her to be a public nuisance and impound such dog in a suitable place or to order the owner thereof to restrain said dog.

Section 4. Notice to Owner and Redemption

The owner of any dog so impounded may reclaim such dog upon the reimbursement to the Town of expenses for maintaining said dog while impounded according to the following schedule:

- | | | |
|----|---------------------|---------|
| 1. | First Offense | \$20.00 |
| 2. | Second Offense | \$25.00 |
| 3. | Third Offense | \$30.00 |
| 4. | Fourth Offense | \$35.00 |
| 5. | Subsequent Offenses | \$50.00 |

(Fines increased 5/4/2000 Art. 36)

Section 5. Penalty

Any owner found in violation of any part of the provisions of the by-law shall be subject to a non-criminal violation according to the following schedule:

- | | | |
|----|---------------------|---------|
| 1. | First Offense | \$20.00 |
| 2. | Second Offense | \$25.00 |
| 3. | Third Offense | \$30.00 |
| 4. | Fourth Offense | \$35.00 |
| 5. | Subsequent Offenses | \$50.00 |

(Fines increased 5/4/2000 Art.36)

Said fines to be paid to the Town within 21 days of receipt of a non-criminal violation by the Animal Control Officer.

Section 6. Disposition of Funds

Such funds collected pursuant to this by-law shall be accounted for and paid over to the Town at such a time and in such a manner as may be designated by the Town Treasurer to be deposited in the Town Treasury to become part of the Town's General Fund. (Amended 5/4/2000 Art. 36)

Section 7. Late License Fee

An additional fee of \$15.00 shall be charged to each dog owner who fails to license his/her dog on or before June 30th of any year. Any owner who fails to license his/her dog upon demand of the Town Clerk thereafter shall be subject to an additional fee of \$25.00. (Amended 5/4/2000 Art. 36)

Section 8. Board Rate

The daily boarding rate for impoundment of dogs shall be \$8.00 per day. (Amended 5/4/2000 Art. 36)

Section 9. Appeal (Added 5/4/2000 Art.36)

The owner of a dog may appeal a violation to the Town Administrator or designee by filing a written request for review within ten (10) days after receipt of a non-criminal violation notice. The Town Administrator or designee shall conduct a hearing and render a written decision within 30 days. The decision shall be final.

Section 10. Kennel License (Added 5/10/2001 Art.13)

Any person who owns or keeps more than three dogs, three months old or over, on a single premise, irrespective of the purpose for which they are maintained, without a valid kennel license issued by the Town Clerk, shall be subject to a \$100 fine.

Section 11. Other Animals (Added 11/17/2005 Art. 13)

Whoever having the charge or custody of any member of the animal kingdom, including, but not limited to, any mammal, bird, reptile or amphibian, other than a dog, willfully suffers or permits them to enter or remain on or pass over the land of another, shall be subject to a fine in accordance with Section 5. The Animal Control Officer may apprehend any animal found in violation and impound such animal in a suitable place. Impoundment Fees in Section 4 and Boarding Rates in Section 8 shall apply in regards to the enforcement of this section.

ARTICLE 10

Planning and Zoning

Section 1. Construction and Demolition of Structures

No building shall be constructed, removed or materially altered without first obtaining a permit from the Building Inspector. Plans and specifications may be required by him before such a permit is issued.

Section 2. Fees

Fees for inspections and/or permits relating to building shall be determined from time to time by the Board of Selectmen; said fee schedules will be on file in the office of the Town Clerk and in the office of the Building Inspector.

Section 3. Removal of Soil, Loam, Sand, Gravel

No person shall remove any soil, loam, sand or gravel from any land in the Town, not in public use, unless such removal is authorized by a special permit from the Zoning Board of Appeals and also a permit issued by the Board of Selectmen except for the continued operation of an existing sand and gravel pit. All permits are to be issued by the Board of Selectmen on a yearly basis subject to a public hearing. Permit fees shall be set by the Board of Selectmen. Any owner of land may, without permit, excavate and remove such materials from his land in the course of constructing a foundation of structure upon his land.

Section 4. Exclusion

The by-laws shall not apply to any building or other structures which are owned or occupied by the United States or to the Commonwealth of Massachusetts nor to any bridge within Town.

Section 5. Street Signs

All requests for street signs must be approved by the Planning Board.

Section 6. Plot Plans

All plot plans for division, redivision or subdivision of land must be submitted to the Planning Board with a copy to the Board of Assessors showing the parcel of land to be divided, redivided or subdivided. The new lot or lots must be outlined in a thick, dark line.

ARTICLE 11

Miscellaneous

Section 1. Junk Collectors and Dealers

The Selectmen may license suitable persons as junk collectors to collect, by purchase or otherwise, junk, old metals and second-hand articles by going from place to place in Town; and no person shall engage in the business without such license.

The Selectmen may license suitable persons to be dealers in and keepers of shops for the purchase, sale and barter of junk, old metal and second-hand articles; and no such person shall be a dealer in or keeper of such shop without a license.

Section 2. Sewer Connections

A permit must be obtained from Superintendent of Sewers before any person may connect to the Town sewer line, and the fee for such a permit shall be set by the Sewer Commissioners. All connections to the Town sewers shall be inspected by the Superintendent of Sewers before connections are covered over; all fees collected by the Superintendent of Sewers shall be remitted to the Town Treasurer.

Section 3. Numbering of Buildings

The Board of Assessors shall be required to regulate within the Town of Spencer the number of buildings and other property on or near the line of public or private ways, and such designations shall constitute the proper and legal address of said building or other property in the Town of Spencer.

In order to assist the Police Department, the Fire Department, and the Rescue Squad in emergencies, every owner of a housing unit in the Town of Spencer is required to place on that unit or on the mail box or on some other device on the property the house and/or apartment number assigned by the Board of Assessors. This number must be visible from the street or road upon which the unit is located.

Section 4. Taxicabs

This by-law permits licensing and regulation by the Board of Selectmen of taxicabs within the Town, said authority to include the power to grant, suspend and revoke licenses to operate taxicabs upon any public way within the Town unless duly licensed under this by-law.

No owner or other person having the control of a taxicab shall allow person to operate the same, and no person shall operate the same unless licensed thereto as provided under this by-law.

Application for the licensing for taxicabs required by this by-law shall be made to the Board of Selectmen on a form furnished by the Board and shall set forth any and all information as the Board may require.

All licenses to operate taxicabs shall be signed by at least a majority of the Board of Selectmen, shall be numbered in order as granted, shall be recorded in the office of the Town Clerk and, the Board of Selectmen shall have the authority to suspend any licenses granted under the provisions of this by-law. Prior to suspension, the Board of Selectmen shall conduct a hearing as to the existence of grounds for suspension if said suspension is for a reason other than the lapsing of the license after the one (1) year licensing period has expired.

The Board of Selectmen shall have the authority to set and regulate rates for services for any and all taxicabs operating within the Town of Spencer. Said rate shall not exceed the prevailing rate for such services in surrounding communities unless good cause is shown for such a higher rate.

Section 5. Non-Criminal Disposition (M.G.L. Chapter 40, Section 21D)
(Added 5/28/98 Art.38)

A. Non-Criminal Disposition: Whoever violates any of these by-Laws, the violation of which is subject to a specific penalty may be subject to a non-criminal proceeding as provided in General Laws, Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violation of any rule or regulation of any municipal office, board or department which provides for a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following By-Laws and Sections of By-Laws are to be included within the scope of their subsection, that the specific penalties are listed herein below shall apply in such cases and that in addition to Police Officers who shall in all cases be considered enforcing persons for the purposes of the provision, the municipal personnel listed for each Section of the General By-Law's as are set forth herein below, if any, shall also be the enforcing persons for such sections. Each day of which any such violation exists shall constitute a separate violation of any such Section.

B. Enforcing Person: Whenever a bylaw of the Town of Spencer is subject to noncriminal proceedings as provided in Chapter 40, Section 21D of the Massachusetts General Laws, the enforcing person shall be the Town Administrator or the Town Administrator's designee, in addition to the enforcing person, if any, specified in such bylaw. The designation of an enforcing person by the Town Administrator may be made or changed at any time, with each designation or change being effective upon the Town Administrator's filing with the Town Clerk of a written notice thereof. (Added 5/10/2001 Art. 15)

C. Late: Failure to make payment of a non-criminal Town By-Law violation within 21 days of the date of delivery of the violation notice or within 21 days of delivery of a notice they have been found responsible after an appeal hearing, shall result in a late charge of \$15.00. (Added 5/9/2002 Art. 18)

D. Demand: Failure to make payment of a non-criminal Town By-Law violation within 21 days of the date of delivery of a Late notice under this section shall result in a demand charge of \$25.00. (Added 5/9/2002 Art.18)

BOARD OF HEALTH

1. BOARD OF HEALTH (Amended 5/9/2002 Art. 17)

A violation of the provisions of the Rules and Regulations of the Board of Health.

Fine allowed: \$300.00

Fine Schedule: As established in Rules &
Regulations

Enforcing Agent: Board of Health or Designee

2. BOARD OF SELECTMEN (Added 5/19/2003 Art. 21)

A violation of the provisions of the Rules & Regulations of the Board of Selectmen.

Fine allowed: \$300.00

Fine Schedule: As established in Rules &
Regulations

Enforcing Agent: Board of Selectmen or Designee

CONSERVATION COMMISSION

1. FAILURE TO FILE NOTICE OF INTENT

Fine Allowed:

Enforcing Agent: Conservation Comm. or Designee

2. VIOLATION OF WETLAND & RIVER PROTECTION ACT

Fine Allowed:

Fine Schedule: 1st Offense \$100.00 per day up to 15 days
2nd Offense \$300.00 per day up to 15 days

Enforcing Agent: Conservation Commission or Designee

3. FAILURE TO COMPLY WITH ORDER OF CONDITIONS

Fine Allowed:

Fine Schedule: 1st Offense \$100.00 per day up to 15 days
2nd Offense \$300.00 per day up to 15 days

Enforcing Agent: Conservation Commission or Designee

4. FAILURE TO COMPLY WITH ENFORCEMENT ORDER

Fine Allowed:

Fine Schedule: 1st Offense \$100.00 per day up to 15 days
2nd Offense \$300.00 per day up to 15 days

Enforcing Agent: Conservation Commission or Designee

5. TRASH AND LITTERING (Amended 5/19/2003 Art. 22)

Fine Allowed: \$150.00

Fine Schedule: \$ 50.00 1st Offense
\$100.00 2nd Offense
\$150.00 3rd Offense

Enforcing Agent: Conservation Commission or Designee

FIRE DEPARTMENT (Added Art 11. 5/5/05)

Town of Spencer Fire Prevention Regulations (527CMR 1.00-50.00 and MGL 148)

Fine Allowed:	Warning 1 st Offense
	\$50.00 2 nd Offense
	\$100.00 3 rd Offense
	\$200.00 4 th Offense
	\$300.00 5 th /any subsequent Offense
Enforcing Agent:	Fire Chief or Designee

HIGHWAY DEPARTMENT

1. EXCAVATION OF PUBLIC WAYS WITHOUT A PERMIT

Fine Allowed:	\$50.00
Enforcing Agent:	Highway Department or Designee

2. OBSTRUCTION OF STREETS AND SIDEWALKS

Fine Allowed:	\$50.00
Enforcing Agent:	Highway Department or Designee

3. DRIVEWAY CUTS AND DRAINAGE WITHOUT A PERMIT

Fine Allowed:	\$50.00
Enforcing Agent:	Highway Department or Designee

4. SNOW PLOWING AND REMOVAL

Fine Allowed:	\$50.00
Fine Schedule:	\$25.00 1 st Offense
	\$25.00 2 nd Offense
	\$50.00 3 rd Offense
Enforcing Agent:	Highway Department or Designee

5. TRASH AND LITTERING

Fine Allowed:	\$150.00
Fine Schedule:	\$ 50.00 1 st Offense
	\$100.00 2 nd Offense
	\$150.00 3 rd Offense
Enforcing Agent:	Highway Department or Designee

POLICE DEPARTMENT

1. DOOR TO DOOR SALES

Fine Allowed:	\$50.00
Enforcing Agent:	Police Department or Designee

2. RUDE, INDECENT SPEECH OR BEHAVIOR

Fine Allowed:	\$50.00
Enforcing Agent:	Police Department or Designee

3. LOITERING

Fine Allowed:	\$50.00
Enforcing Agent:	Police Department or Designee

4. FIREWORKS

Fine Allowed:	\$50.00
Enforcing Agent:	Police Department or Designee

5. SKATEBOARDS AND ROLLER SKATES

Fine Allowed:	\$50.00
Enforcing Agent:	Police Department or Designee

6. CONSUMPTION OF LIQUOR

Fine Allowed:	\$50.00
Enforcing Agent:	Police Department or Designee

7. UNREGISTERED MOTOR VEHICLES

Fine Allowed:	\$50.00
Enforcing Agent:	Police Department or Designee

8. OPERATION OF AUTOMOBILES ON FROZEN SURFACES

Fine Allowed:	\$50.00
Enforcing Agent:	Police Department or Designee

ARTICLE 12
Alarm System By-Law
(Added Art. 37 5/16/2000)

Section 1. Title and Purpose

- (A) This by-law shall be known as the Alarm System By-Law and shall regulate alarms which cause a message to be transmitted to Police or Fire Departments.
- (B) The purpose of this by-law is to encourage alarm users to maintain the operational reliability of their alarm systems, to reduce or eliminate false alarm dispatch requests, to establish a system of regulations and fees with respect to alarm systems, and to provide for penalties for violations of this by-law.

Section 2. Permit Requirements

- (A) No alarm user shall operate, or cause to be operated, an alarm system without a valid permit issued in accordance with this by-law. A separate permit is required for each alarm site. There will be a one-time fee of \$25.00 for a permit of an alarm site.

Section 3. Alarm System Operation and Maintenance

- (A) The alarm user shall maintain the alarm site and alarm system in a manner that will minimize or eliminate false alarm dispatches.
- (B) The alarm user shall make every reasonable effort to respond or cause a representative to respond within one-half hour, when notified, to deactivate a malfunctioning alarm system or to provide access to the alarm site.
- (C) The alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site will sound for no longer than 15 minutes after being activated.
- (D) The alarm business performing monitoring services shall attempt to verify every alarm signal, except a duress or hold-up alarm activation, before requesting a police response to an alarm signal.
- (E) An alarm system does not include an alarm installed in a vehicle or an alarm designed to alert only the inhabitants of a premises that does not have a sound device which can be heard on the exterior of the alarm site.
- (F) Automatic Dialers to the Police or Fire Departments are prohibited.
- (G) The Police or Fire Departments shall not serve as alarm monitors.

Section 4. Fines

(A) Effective July 1, 2001 an alarm user shall be subject to warnings and fines depending on the number of false alarm dispatches emitted from an alarm system within the fiscal year, based on the following schedule.

Number of False Alarm Dispatches	Action Taken	Fine
1	Warning	None
2	Warning	None
3	3 rd Offense	\$ 50.00
4	4 th Offense	\$ 75.00
5	5 th & Subsequent	\$100.00

(B) Any persons operating an alarm system without a permit issued in accordance with this by-law shall be subject to an additional fine of \$100.00 for each false alarm dispatch.

(C) An alarm dispatch request caused by a criminal offense, a fire or other emergency, or an alarm resulting solely from power outages or extreme weather conditions shall not be counted as a false alarm dispatch.

(D) All fines and fees resulting from the enforcement of the provisions of this by-law shall be collected in the form of a personal check, money order or registered check, made payable to the Town of Spencer and forwarded to the Police Department.

(E) State and municipal entities shall be exempt from the provisions of this by-law.

(F) All fines shall be paid within 21 days of receipt of a non-criminal violation notice.

Section 5. General Provisions

(A) Except as otherwise required by law, the information furnished and secured pursuant to this by-law shall be confidential in character and shall not be subject to public inspection.

(B) The alarm user may appeal the decision of the alarm administrator to the Town Administrator or designee by filing a written request for a review within ten (10) days after receipt of a non-criminal violation notice. The Town Administrator or designee shall conduct a hearing and render a written decision within 30 days. The decision of the administrator or designee shall be final.

(C) The Chief of Police shall serve as the alarm administrator to: administer, control and review alarm applications, permits, and alarm dispatch requests, develop a procedure to accept verified cancellation of alarm dispatch requests, promulgate such regulations as may be necessary or required to implement this by-law.

ARTICLE 13
Fire Department
(Added Art. 11 5/5/2005)

Section 1. Fire Prevention Regulations

(A) In order to protect and enhance public safety by reducing the risk of fire hazard, the provisions of the Code of Massachusetts Fire Prevention Regulations 527 C.M.R. 1.00 thru 50.00 and MGL 148 Fire Prevention as from time to time amended are hereby incorporated in and made part of this by law and any violation of any provision thereof shall constitute a violation of this section.

Section 2. Enforcement

(A) Enforcement of this by-law will be by the Fire Chief or designee.

Section 3. Violations and Penalties

(A) Whoever violates any provisions of Article 13 Section 1 shall be punished by a schedule of fines under Article 11 Section 5.

(B) Whoever violates any provisions of Article 13 Section 1 will be subject to Article 11 Section 5, Non-Criminal Disposition By-Law. This section does not preclude enforcing any sections of the Fire Prevention Regulations under any other statute or preclude criminal action being taken against the violator.

(C) All fines and fees resulting from the enforcement of this provision of this bylaw shall be collected in the form of a personal check, money order or registered check, made payable to the Town of Spencer and forwarded to the Fire Department.

(D) State and municipal entities shall be exempt from the provisions of this by-law.

(E) All fines shall be paid within 21 days of receipt of a non-criminal violation notice.